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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/487,944	01/19/2000	Ronald J. Shannon	CV0283a	3760

7590 06/27/2005
Bristol-Myers Squibb Company
100 Headquarters Park Drive
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EXAMINER

ALVAREZ, RAQUEL

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 06/27/2005

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GROUP 3600

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/487,944
Filing Date: January 19, 2000
Appellant(s): SHANNON, RONALD J.

John M. Kilcoyne
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 4/15/2005.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

The brief does not contain a statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief. Therefore, it is presumed that there are none. The Board, however, may exercise its discretion to require an explicit statement as to the existence of any related appeals and interferences.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

Solutions, Wound care

Algorithm Series. Convatec

(1998).

5,299,121

Brill et al.

03-1994

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 3-8, 10 and 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brill et al. (5,299,121 hereinafter Brill) in view of article titled, "Solutions, Wound Care Algorithm Series flip cards" hereinafter Solutions.

With respect to claims 1, 3-6, 8 and 9-10, 16-17 Brill teaches a method for identifying a symptom care protocol for a given symptom (see figures 1-4). Classifying the symptom against a defined scale for a first symptom factor to obtain a symptom classification (i.e. classifying the symptoms to obtain the kind of illness)(Figures 1-2C); grading the symptom factors against defined scale (i.e. the level of the symptoms are accessed to determine the type of illness (Figure 2A-2E); a visual decision device corresponding to the symptom classification wherein the visual decision device identifies at least one component of a treatment protocol for the graded symptom factors (col. 3, lines 32-, col. 4, lines 1-68).

Brill does not specifically teach that the symptoms being rated and classified are wounds. On the other hand, Solutions teaches a method of use in identifying and carrying for various wounds. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included in the system of Brill one of the symptoms to be wounds because such a modification would include wound properties and the ability to promote the wound healing process.

With respect to a mechanical device for presenting the visual decision and for classifying the wound, such as sliding cards. The combination of Brill and Solutions teach computerized decisions techniques for presenting and classifying wounds. Manual devices such as sliding cards are well known and commonly used specifically prior to the computer era to present a visual decision. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included mechanical devices and sliding cards because such a modification would allow non-computer users to benefit from the use of the system.

Claim 7 further recites an interactive scoring sheet containing a marker associated with one or more of the scores for two or more wound factors identifying an addition to the treatment protocol. The combination of Brill and Solutions teach leveling the wound factors and identifying various treatment protocols and since it is old and well known in the computer related arts to provide interactive displays then it would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included a scoring sheet containing a marker for identifying an addition to the treatment protocol because such a modification would allow for a more permanent display such as a scoring sheet marking or showing the additional treatments.

Claims 13-15 further recites a sleeve in which the card slides having at least two openings, the second opening alignable with the second opening. Official notice is taken that a card in which a first and a second openings are alignable in order to match the corresponding information is old and well known. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included

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modifying the combination of Brill and Solutions with a sleeve in which the card slides having at least two openings, the second opening alignable with the second opening in order to obtain the above mentioned advantage.

(11) Response to Argument

Appellant argues that Brill et al. has nothing to do with wound care.. The Examiner wants to point out that the claims were not rejected under 102.

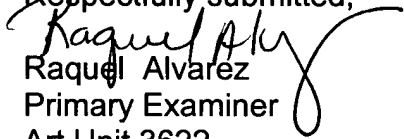
Appellant argues that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Brill is a system and method to assist the customer with the selection of an appropriate medication to relieve symptoms of an illness, **injury** or the like. A wound is an **injury** to one's body as from a violence, accident or surgery and therefore it would have been obvious in the system and method of Brill to include classifying the wounds of Solutions because such a modification would allow in the system of Brill to include as one of the injury a wound in order to provide wound properties and the ability to promote the wound healing process.

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With respect to using a mechanical device such as sliding cards. The Examiner took official notice that operating slide cards to show a visual decision is well known. For example some cosmetic vendors have sliding cards in order to match the customer's skin color to certain skin care products.

With regard to the examiner's use of Official Notice that using a scoring sheet is old and well known, since, Appellant didn't command a response or request of such personal knowledge such as to provide a proper challenge that would at least cast reasonable doubt on the fact taken notice of, the Official notice is sustained. See MPEP 2144.03 where In re Boon is mentioned.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Raquel Alvarez
Primary Examiner
Art Unit 3622

R.A.

June 21, 2005

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